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8 Attorneys for the United States of America

9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,

CV 04-0933 WBS

14 Plaintiff,

15 v.

16 \$2,526.70 FROM CITIBANK ACCOUNT NO.

17 40017922317; \$31,502.09 FROM CITIBANK  
SETTLEMENT STIPULATION AND  
18 ACCOUNT NO. 40017922234; \$5,086.46 FROM  
CITIBANK NO. 50439595; \$31,502.09 FROM  
19 CITIBANK ACCOUNT NO. 40017922259; \$5,175.11 )  
FROM CITIBANK ACCOUNT NO. 50439637; )  
20 \$31,502.90 FROM CITIBANK ACCOUNT NO. )  
40017922275; \$4,662.74 FROM CITIBANK )  
21 ACCOUNT NO. 50439611; \$17,296.00 FROM )  
CITIBANK ACCOUNT NO. 40017742160; AND )  
22 \$2,749.25 FROM CITIBANK ACCOUNT NO. )  
50439579, )  
23 Defendants.

24 ANNA WONG AND NANCY QUAN,

25 Claimants.

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27

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1	UNITED STATES OF AMERICA,	)	CV 05-4412 WBS
2		)	
3	Plaintiff,	)	
4		)	
5	v.	)	
6		)	
7	NET PROCEEDS FROM THE SALE OF	)	
8	REAL PROPERTY AND IMPROVEMENTS	)	
9	LOCATED AT 935-945 FOLSOM STREET,	)	
10	SAN FRANCISCO, CALIFORNIA,	)	
11		)	
12	Defendant.	)	
13		)	
14	<hr/> NANCY QUAN,	)	
15		)	
16	Claimant.	)	
17	<hr/>	)	

#### STIPULATION

Plaintiff United States of America and Claimant Nancy Quan, in full settlement of all issues directly and indirectly related to the seizure, detention and pending forfeiture action against the above-captioned defendant property in case C 04-0933 WBS and case C 05-4412 WBS, which currently total \$1,456,829.15 plus accrued interest (collectively hereinafter referred to as "defendant funds"), hereby stipulate and agree as follows:

1. The defendant funds in case C 05-4412 WBS were seized by the Federal Bureau of Investigation pursuant to a duly authorized seizure warrant as there was probable cause to believe the funds were proceeds from bankruptcy fraud and involved in money laundering transactions and thus subject to forfeiture under Title 18, United States Code, Sections 981(a)(1)(A) and 981(a)(1)(C). The funds seized in case C 05-4412 WBS were seized from the bankruptcy court concerning litigation of the estate of debtor Tomi LLC (case C 03-31971). The defendant funds are currently in the custody of the United States Marshal's Service (USMS). The principal funds in case C 05-4412 WBS total \$1,324,826.62.

2. The United States filed a civil forfeiture complaint against the defendant funds in case C 05-4412 WBS on October 28, 2005.

3. Nancy Quan asserted claims to the defendant funds in case C 05-4412 WBS. Mohammed Poonja, in his capacity of trustee for Tomi LLC, asserted claims in the defendant funds on

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1 behalf of the creditors of Tomi LLC, which also included creditors of the related bankruptcy estates of  
 2 Wins Fashions and Wins of California. Jimmy Quan and Anna Wong have either an ownership and/or  
 3 controlling interest in each of these entities. Mr. Poonja subsequently withdrew his claim.

4. The parties agree that rather than engage in costly and lengthy forfeiture litigation over  
 5 the defendant funds, in the interest of justice, the defendant funds in case C 05-4412 WBS, including both  
 6 principal and accumulated interest, should be transferred to Mohammed Poonja in his capacity as trustee  
 7 in bankruptcy case 03-31971, *In re Tomi LLC*, to be distributed as indicated below, subject to appropriate  
 8 bankruptcy court order, consistent with the terms of this stipulation and [proposed] Order.

5. Within ten days of the entry of an Order as set forth in this stipulation, the USMS shall  
 10 transfer the funds in case C 05-4412 WBS, consisting of both principal and interest accumulated to the  
 11 date of distribution, to Mohammed Poonja (“trustee”) in his capacity as trustee in bankruptcy case 03-  
 12 31971, *In re Tomi LLC*, at P.O. Box 1510, Los Altos, California 94023-1510, for distribution consistent  
 13 with the provisions of paragraphs 6 through 8, below. The trustee shall distribute the funds, subject to the  
 14 appropriate bankruptcy court order, consistent with the terms of this stipulation and [proposed] Order.

6. Distribution of the principal defendant funds in case C 05-4412 WBS (\$1,324,826.62)  
 16 shall be made to the following payees, at the addresses which will be provided by the United States  
 17 Attorney within fourteen days of the entry of an Order as set forth in this stipulation, in the amounts listed  
 18 :

a. Lih-Woan Lii	\$ 308,000.00
b. Michael Lewis	\$ 212,500.00
c. Lynn Schoenmann as trustee of Win Fashion, Inc. & Wins of California, Inc. bankruptcy estates	\$ 40,000.00
d. Internal Revenue Service	\$ 59,379.04
e. State of California Employment Development Department	\$ 100,000.00
f. City and County of San Francisco Tax Collector	\$ 30,000.00

28  
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1	g. Lansing Street Partners	\$ 36,000.00
2	h. State of California Franchise Tax Board	\$ 3,100.00
3	i. Better Methods Alexander	\$ 1,339.62
4	j. C.R. Daniels, Inc.	\$ 2,143.39
5	k. PG & E (Win Fashion, Inc.)	\$ 2,357.73
6	l. Saha Union International, Inc.	\$ 4,661.87
7	m. Sunclipse, Inc.	\$ 589.43
8	n. Burlington Industries, Inc.	\$ 5,465.65
9	o. Sun Trust Bank	\$ 1,661.13
10	p. Feldman Co., Inc. Euler American Credit Idemnity	\$ 4,661.87
11	q. Phoenix Ribbon Co., Inc.	\$ 10,824.12
12	r. Acker & Jablow	\$169,327.84
13	s. Reynaud Rexo c/o Milton J. Moser Assoc.	\$ 6,805.26
14	t. Baroff Container & Supply Co.	\$ 2,893.58
15	u. Weber & Sons Button Co.	\$ 1,178.86
16	v. PG & E (for Wins of Ca.)	\$ 643.02
17	w. Milberg Factors, Inc.	\$ 3,911.69
18	x. Gehring Textiles, Inc.	\$ 696.60
19	y. Artistic Ribbon, Inc.	\$ 2,036.22
20	z. ABC Embroidered Accessories	\$ 214.34
21	aa. Super Trim, Inc.	\$ 29,096.52
22	bb. Crafland, Inc.	\$ 1,446.79
23	cc. Robert Kaufman	\$ 9,591.67
24	dd. Sani-Line Sales	\$ 696.60
25	ee. Emday	\$ 61,943.98
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27		
28		

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1	ff. Neman Brothers	\$103,793.68
2	gg. E.T.C. Trims Co.	\$ 2,464.90
3	hh. Fabric Country	\$ 2,089.81
4	ii. PG&E (Wins of CA)	\$ 428.68
5	jj. Compupunch, Inc.	\$ 1,553.96
6	kk. San Francisco Elevator Co.	\$ 3,268.67
7	ll. Euler / American Credit Indemnity, Agent of Feldman Co., Inc.	\$ 7,716.21
8	mm. HSBC Business Credit USA, Inc.	\$ 4,179.61
9	nn. Alden, Curtis and Michaels, Ltd. World Wide Collections	\$ 2,411.31
10	oo. Euler-Hermes ACI	\$ 20,362.21
11	pp. GMAC Commercial Credit, LLC	\$ 3,161.50
12	qq. Logistics Links	\$ 29,310.86
13	rr. Lansing Street Partners	\$ 11,735.06
14	ss. MK Fabrics, Inc.	\$ 19,183.34

18       7. The parties further agree that, as to any interest that has accrued on the principal net sum  
 19 of funds in case C 05-4412 WBS while the defendant funds have been in U.S. Marshal custody, the first  
 20 \$140,000 of said interest shall be distributed to creditor Internal Revenue Service, identified above in  
 21 6(d), with both such payments representing losses incurred by the Internal Revenue Service for employee  
 22 trust fund taxes that the Wins companies failed to pay. Any additional interest beyond the first \$140,000  
 23 that has accrued on the principal amount as of the day of distribution to the trustee by the USMS, as well  
 24 as any additional funds available that would otherwise be part of action C 05-0411 WBS and that are  
 25 being held by the trustee, minus any necessary and reasonable professional fees and costs incurred by the  
 26 trustee in effecting the distributions set forth in this stipulation and the Court's Order in action C 05-0411  
 27 WBS, shall be distributed by the trustee to the parties identified in paragraph 6, subparagraphs i through  
 28

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1 ss, above, on the same pro rata basis.

2       8. Any checks that are distributed and remain uncashed after 120 days, and any additional  
3 funds that may be available due to accrual of additional interest, shall be re-distributed by the trustee pro  
4 rata to the creditors listed paragraph 6, subparagraphs i through ss, above. The United States Attorney  
5 will make good faith efforts to locate all said creditors. The trustee is under no obligation to search for  
6 other addresses before re-distributing the funds pro rata.

7       9. Claimant Nancy Quan shall hold harmless the United States of America, the Federal  
8 Bureau of Investigation, the United States Marshal's Service, and all agents, officers and employees  
9 thereof, including any and all state and local law enforcement officers, for any and all acts directly or  
10 indirectly related to the seizure, detention and distribution of the defendant funds.

11       10. Each party shall bear its own attorneys fees and costs.

12       11. In exchange for the settlement described above in case C 05 4412 WBS, the United  
13 States agrees to move to dismiss the civil forfeiture action in case C 04-0933 WBS.

14       12. The terms of this settlement agreement are contingent upon the Court's entry of the  
15 proposed Order concerning the distribution of funds.

16       13. The distribution in accordance with the terms of this agreement will constitute full  
17 satisfaction of any restitution that may be due and owing under *United States v. Quan, et al.*, criminal  
18 case CR-04-323 WBS.

19 SO STIPULATED.

20 Dated: \_\_\_\_\_, 2008

21 STEPHANIE M. HINDS  
22 Assistant United States Attorney

23 Dated: \_\_\_\_\_, 2008

24 JOHN CHU  
25 Attorney for Nancy Quan and Anna Wong

26 Dated: \_\_\_\_\_, 2008

27 NANCY QUAN  
28 Claimant

**ORDER**

SETTLEMENT STIPULATION AND  
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Upon the above stipulation of the parties, and good cause appearing, the Court hereby finds that there was probable cause to seize the defendant funds in case C 05-4412 WBS as suspected proceeds of bankruptcy fraud and property involved in money laundering transactions. The Court further finds and orders that in the interest of justice, the defendant funds at issue in case C 05-4412 WBS, currently held in the custody of the United States Marshal's Service (USMS), shall be transferred to Mohammed Poonja in his capacity as trustee in bankruptcy case 03-3197, *In re Tomi LLC*, for distribution, subject to appropriate bankruptcy court order, as set forth below:

1. Within ten days of the entry of this Order, the USMS shall transfer the defendant funds in case C 05-4412 WBS, consisting of both principal and interest accumulated to the date of distribution, to Mohammed Poonja ("trustee") in his capacity as trustee in bankruptcy case 03-31971, *In re Tomi LLC*, at P.O. Box 1510, Los Altos, California 94023-1510, for distribution consistent with the provisions of paragraphs 2 through 4, below. The trustee shall distribute the funds, subject to the appropriate bankruptcy court order, consistent with the terms of the parties's stipulation and this Order.

2. Distribution of the principal of the defendant funds, \$1,324,826.62, shall be made to the following payees, at the addresses which will be provided by the United States Attorney within fourteen days of the entry of this Order, in the amounts listed :

a. Lih-Woan Lii	\$ 308,000.00
b. Michael Lewis	\$ 212,500.00
c. Lynn Schoenmann as trustee of Win Fashion, Inc. & Wins of California, Inc. bankruptcy estates	\$ 40,000.00
d. Internal Revenue Service	\$ 59,379.04
e. State of California Employment Development Department	\$ 100,000.00
f. City and County of San Francisco Tax Collector	\$ 30,000.00
g. Lansing Street Partners	\$ 36,000.00
h. State of California Franchise Tax Board	\$ 3,100.00

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1	i. Better Methods Alexander	\$ 1,339.62
2	j. C.R. Daniels, Inc.	\$ 2,143.39
3	k. PG & E (Win Fashion, Inc.)	\$ 2,357.73
4	l. Saha Union International, Inc.	\$ 4,661.87
5	m. Sunclipse, Inc.	\$ 589.43
6	n. Burlington Industries, Inc.	\$ 5,465.65
7	o. Sun Trust Bank	\$ 1,661.13
8	p. Feldman Co., Inc. Euler American Credit Idemnity	\$ 4,661.87
9	q. Phoenix Ribbon Co., Inc.	\$ 10,824.12
10	r. Acker & Jablow	\$169,327.84
11	s. Reynaud Rexo c/o Milton J. Moser Assoc.	\$ 6,805.26
12	t. Baroff Container & Supply Co.	\$ 2,893.58
13	u. Weber & Sons Button Co.	\$ 1,178.86
14	v. PG & E (for Wins of Ca.)	\$ 643.02
15	w. Milberg Factors, Inc.	\$ 3,911.69
16	x. Gehring Textiles, Inc.	\$ 696.60
17	y. Artistic Ribbon, Inc.	\$ 2,036.22
18	z. ABC Embroidered Accessories	\$ 214.34
19	aa. Super Trim, Inc.	\$ 29,096.52
20	bb. Crafland, Inc.	\$ 1,446.79
21	cc. Robert Kaufman	\$ 9,591.67
22	dd. Sani-Line Sales	\$ 696.60
23	ee. Emday	\$ 61,943.98
24	ff. Neman Brothers	\$103,793.68
25	gg. E.T.C. Trims Co.	\$ 2,464.90
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1	hh. Fabric Country	\$ 2,089.81
2	ii. PG&E (Wins of CA)	\$ 428.68
3	jj. Compupunch, Inc.	\$ 1,553.96
4	kk. San Francisco Elevator Co.	\$ 3,268.67
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6	ll. Euler / American Credit Indemnity, Agent of Feldman Co., Inc.	\$ 7,716.21
7	mm. HSBC Business Credit USA, Inc.	\$ 4,179.61
8	nn. Alden, Curtis and Michaels, Ltd. World Wide Collections	\$ 2,411.31
9	oo. Euler-Hermes ACI	\$ 20,362.21
10	pp. GMAC Commercial Credit, LLC	\$ 3,161.50
11	qq. Logistics Links	\$ 29,310.86
12	rr. Lansing Street Partners	\$ 11,735.06
13	ss. MK Fabrics, Inc.	\$ 19,183.34

16       3. As to any interest that has accumulated on the principal funds in case C 05-4412 WBS  
 17 as of the date of distribution by the USMS, the first \$140,000 of said interest shall be distributed to  
 18 creditor Internal Revenue Service, identified above in 2(d), with both payments to the Internal Revenue  
 19 Service representing losses incurred by the Internal Revenue Service for employee trust fund taxes that  
 20 the Wins companies failed to pay. And additional interest beyond the first \$140,000 that has accrued on  
 21 the principal amount as of the day of distribution to the trustee by the USMS, as well as any additional  
 22 funds available that would otherwise be part of action C 05-0411 WBS and that are being held by the  
 23 trustee, minus any necessary and reasonable professional fees and costs incurred by the trustee in  
 24 effecting the distributions set forth in this Order, shall be distributed by the trustee to the parties identified  
 25 in paragraph 2, subparagraphs i through ss, above on the same pro rata basis.  
 26

27       4. Any checks that are distributed and remain uncashed after 120 days, and any additional  
 28 funds that may be available due to accrual of additional interest, shall be re-distributed by the trustee pro

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1 rata to those creditors listed in paragraph 2, in subparagraphs i through ss, above who cashed their checks.  
2 The United States Attorney will make good faith efforts to locate all said creditors. The trustee is under  
3 no obligation to search for other addresses before re-distributing the funds pro rata.

4 5. Claimant Nancy Quan shall hold harmless the United States of America, the Federal  
5 Bureau of Investigation, the United States Marshals Service, and all agents, officers and employees  
6 thereof, including any and all state and local law enforcement officers, for any and all acts directly or  
7 indirectly related to the seizure, detention and distribution of the defendant funds.

8 6. Each party shall bear its own attorneys fees and costs.

9 7. The distribution in accordance with the settlement's terms will constitute full satisfaction  
10 of any restitution that may be due and owing in *United States v. Quan, et al.*, criminal case CR-04-323  
11 WBS.

12 8. Within five days of the USMS's transmission of funds to the trustee, the United States  
13 shall file its formal motion and proposed order for dismissal of case C 04-0933 WBS. The government's  
14 motion shall include instructions to the USMS regarding distribution of the funds held in case C 04-0933  
15 WBS to claimants Nancy Quan and Anna Wong.

16  
17 IT IS SO ORDERED.

18  
19 Dated: June 9, 2008

20   
21 WILLIAM B. SHUBB  
22 UNITED STATES DISTRICT JUDGE  
23  
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